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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/550,478	08/07/2006	Peter Weingartner	BPP 305	1955
23581 7590 07/11/2008 KOLISCH HARTWELL, P.C. 520 SW YAMHILL STREET, Suite 200 PORTLAND, OR 97204				
EXAMINER				
RODRIGUEZ, RUTH C				
ART UNIT		PAPER NUMBER		
3677				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/550,478

Applicant(s)

WEINGARTNER, PETER

Examiner

RUTH C. RODRIGUEZ

Art Unit

3677

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 April 2008.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-8 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 2-8 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 23 September 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/5508)
Paper No(s)/Mail Date _____
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Inventor's Patent Application
6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 4-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Shuey (US 1,148,934).

A clip clamps sheets of paper, plastic, metal, and other materials at the sheet corners or sides (Page 1 ,lines 81-85). The clip comprises two limbs (3,4) and a pre-tensioned back (2,8) configured to apply a force to the limbs. The clip is configured to be U-shaped with the limbs parallel to each other in a relaxed state (Figs. 1-3). Each limb includes a small inward fold (6) of less than 90 degrees (Figs. 1-3). Each inward fold defines a fold line (Figs. 1-3). The fold line is disposed at an acute angle with respect to the back or the fold being disposed at the region of each limb furthest from the back (Figs. 1-3). The clip is configured so that the sheets may be clamped between the limbs by virtue of the force applied by the pre-tensioned back (Figs. 1-3). The clip comprises metal or high-strength plastic or wood or compressed cellulose (Page 1, lines 55-62).

The clip is characterized by the fact that the clip is made to be multipart (1,8).

The clip is characterized by the fact that sheets may be clamped between the limbs by virtue of the force applied by the pre-tensioned back in combination with projections incorporated into the limbs (Figs. 1-3).

A clip clamps sheets of paper, plastic, metal, and other materials at the sheet corners or sides (Page 1 ,lines 81-85). The clip comprises two limbs (3,4) and a pre-tensioned back (2, 8) configured to apply a force to the limbs (Figs. 1-3). The clip is configured to be U-shaped with the limbs parallel to each other in a relaxed state (Figs. 1-3). Each limb includes a small inward fold (6) of less than 90 degrees (Figs. 1-3). Each inward fold defining a fold line (Figs. 1-3). The fold line is disposed at an acute angle with respect to the back (Figs. 1-3). The clip is configured so that the sheets may be clamped between the limbs by virtue of the force applied by the pre-tensioned back (Figs. 1-3). The clip comprises metal or high-strength plastic or wood or compressed cellulose (Page 1, lines 55-62).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 2 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shuey in view of Burleigh et al. (US 2,310,835).

Shuey discloses a clip having all the features mentioned above for the rejection of claim 4. Both limbs are arranged on top of each other and parallel to each other in the relaxed state of the clip (Figs. 1-3). Shuey fails to disclose that the both limbs are arranged on top of each other and parallel to each other in a state with a clamped stack of sheets by means of a spring. However, Burleigh teaches a clip comprises two limbs (4) and a pre-tensioned back (1) configured to apply a force to the limbs. The clip is configured to be U-shaped with the two limbs parallel to each other in a relaxed state (Fig. 1). Each limb includes a small fold (Figs. 1 and 2). The clip is configured so that sheets can be clamped between the limbs by virtue of the force applied to the pre-tensioned back (Figs. 1 and 2). The clip comprises metal or high-strength plastic or wood or compressed cellulose (Figs. 1 and 2). The spring allows the limbs to be parallel to each other at all times while providing a firm grip in the sheets (Page 2, column 1, lines 13-25). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to both limbs are arranged on top of each other and parallel to each other in a state with a clamped stack of sheets by means of a spring as taught by Burleigh in the clip disclosed by Shuey. Doing so, allows the limbs to be parallel to each other at all times while providing a firm grip in the sheets. Burleigh also teaches that clip is made to be multipart with both limbs being connected by a spring (1). When the combination of Shuey and Burleigh is taken into consideration the limbs will not have mutual contact because the folds of Shuey will prevent mutual contact between the limbs.

Burleigh also teaches that the clip is characterized by the fact that it is made to be multipart (1,4) with both limbs (4) being connected by means of a spring (Figs. 1 and 2) without making mutual contact when the combination of Shuey and Burleigh is taken into consideration the limbs will not have mutual contact because the folds of Shuey will prevent mutual contact between the limbs.

5. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shuey.

The clip is characterized by the fact that each limb is rectangular. Shuey fails to disclose that the clip is characterized by the fact that each limb is triangular, trapezoidal, semicircular or semielliptical. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have the clip being characterized by the fact that each limb is triangular, trapezoidal, semicircular, or semielliptical since a change in the shape of a prior art device is a design consideration within the skill of the art. In re Dailey, 357 F.2d 669, 149 USPQ 47 (CCPA 1966). Especially since the clip will perform equally as well regardless whether the shape of each limb is rectangular, triangular, trapezoidal, semicircular or semielliptical.

Response to Arguments

6. Applicant's arguments with respect to claims 2-8 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ruth C Rodriguez whose telephone number is (571) 272-7070. The examiner can normally be reached on M-F 07:15 - 15:45.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Victor D. Batson can be reached on (571) 272-6987.

Submissions of your responses by facsimile transmission are encouraged. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Art Unit: 3677

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-6640.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/RCR/
Ruth C. Rodriguez
Patent Examiner
Art Unit 3677

rcr
July 11, 2008

/Robert J. Sandy/
Primary Examiner, Art Unit 3677